

Guidelines on methods for determining the market shares for reporting

1. Introduction

- 1.1. According to Article 16 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council (hereafter EIOPA Regulation)¹, EIOPA is issuing Guidelines on how to determine the market shares for limited regular reporting as required by Article 35(11) of Directive 2009/138/EC of the European Parliament and of the Council (hereafter Solvency II Directive)².
- 1.2. The purpose of these Guidelines is to specify the methods to be used when determining the market shares referred to in Article 35(6) and (7) and Article 254 of Solvency II Directive.
- 1.3. These Guidelines define the market shares corresponding to 100% of the markets that each national competent authority supervises under Solvency II Directive.
- 1.4. To calculate the market share, relevance is given to the type of business, i.e. life and non-life business, rather than to the authorisation granted to undertakings, i.e. life insurance authorisation or non-life insurance authorisation.
- 1.5. The specific situation of composite undertakings and of the reinsurance market was considered due to the potential complexity of the risk profile. EIOPA considers that this should be addressed when considering the criteria defined in Article 35(8) of Solvency II Directive.
- 1.6. In Member States where there is a high volume of reinsurance business, the inclusion of such business in the market share may lead to different exemptions than if considering four different market shares, two for direct business (life and non-life) and two for reinsurance (life and non-life). However, as national competent authorities shall apply Article 35(8) of Solvency II Directive, it is more likely to find more situations of companies that would have to report due to the distortion of the inclusion of the reinsurance business in the market shares.
- 1.7. The business undertaken by insurance and reinsurance undertakings through their branches (EEA and non-EEA) and under freedom to provide services should be considered in the relevant market shares of the country where the undertaking is located.
- 1.8. Exempted insurance and reinsurance undertakings should be aware that they might need to report in the future due to changes in the annually recalculated market shares even if the size of their business remains unchanged.

¹ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48)

² Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1)

1.9. These Guidelines are addressed to national competent authorities under Solvency II Directive.

1.10. The Guidelines shall apply from 1 January 2016.

1.11. If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.

Guideline 1 – Scope of market

1.12. National competent authorities should ensure that the market share:

- a) includes the business underwritten by all insurance and reinsurance undertakings which are established according to Article 2 of Solvency II Directive;
- b) does not include the business underwritten by insurance and reinsurance undertakings that meet the criteria laid down in Article 4 of Solvency II Directive.

Guideline 2 – Calculation of the Life Market

1.13. National competent authorities should ensure that the life insurance and reinsurance market is determined annually by aggregating the amount of gross technical provisions of the life business, including technical provisions for index-linked and unit-linked insurance, of the relevant insurance and reinsurance undertakings identified in Guideline 1.

Guideline 3 – Calculation of the Non-Life Market

1.14. National competent authorities should ensure that the non-life insurance and reinsurance market is determined annually by aggregating the amount of gross written premiums of the non-life business of the relevant insurance and reinsurance undertakings identified in Guideline 1.

Guideline 4 – Inclusion of the business of insurance and reinsurance undertakings with a different financial year than the calendar year end in the market

1.15. National competent authorities should ensure that where an insurance or reinsurance undertaking has a different financial year than the calendar year, the latest annual information available is considered in the calculation of the non-life or life market.

Guideline 5 – Treatment of insurance and reinsurance undertakings that pursue both life and non-life insurance obligation

1.16. National competent authorities should ensure that an insurance or reinsurance undertaking which has business in both the non-life and the life market are not exempted if its business is above the 20% threshold in one of the market shares.

Guideline 6 – Information to be used to determine the market

- 1.17. National competent authorities should consider the latest annual information available from the solvency regime previously in place to the maximum extent possible to apply Guidelines 1 to 5 regarding the first and second year of Solvency II Directive's application.
- 1.18. National competent authorities should consider the information reported in the annual quantitative reporting templates S.05.01 and S.12.01 as defined under the Implementing Technical Standard on Supervisory Reporting³ of the third and following years after the application of Solvency II Directive.

Guideline 7 - Information to undertakings

- 1.19. National competent authorities should inform within a reasonable timeframe insurance or reinsurance undertakings that they have been granted an exemption from quarterly reporting or annually item-by-item reporting.

Guideline 8 – Information to undertakings that are part of a group

- 1.20. National competent authorities should inform the insurance or reinsurance undertakings that are part of a group of the process, including the timeframe, to demonstrate to the satisfaction of the supervisory authority that quarterly reporting or reporting on an item-by-item basis is inappropriate, given the nature, scale and complexity of the risks inherent to the business of the group and taking into account the objective of financial stability.

Guideline 9 – Consultation with the group supervisor

- 1.21. When assessing the request for exemption of insurance or reinsurance undertakings that are part of a group, national competent authorities should take into account the opinion of the group supervisor.

Compliance and Reporting Rules

- 1.22. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, competent authorities and financial institutions shall make every effort to comply with guidelines and recommendations.
- 1.23. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
- 1.24. Competent authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the issuance of the translated versions.

³ The Consultation Paper for the Submission of information ITS, including templates, can be found here: [https://eiopa.europa.eu/Pages/Consultations/Public-consultation-on-the-Set-2-of-the-Solvency-II-Implementing-Technical-Standards-\(ITS\)-and-Guidelines.aspx](https://eiopa.europa.eu/Pages/Consultations/Public-consultation-on-the-Set-2-of-the-Solvency-II-Implementing-Technical-Standards-(ITS)-and-Guidelines.aspx)

1.25. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

Final Provision on Reviews

1.26. The present Guidelines shall be subject to a review by EIOPA.